

**STATE OF MONTANA**

**SECRETARY OF STATE'S OFFICE**

**2011  
DIVERSITY ACTION PLAN**



Adopted by Montana Secretary of State Linda McCulloch, 8/2011

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## I. PLAN PURPOSE

The purpose of this plan is to implement and maintain an Equal Employment Opportunity (EEO) Program to ensure that the Montana Secretary of State's Office does not discriminate in employment, based upon race, color, national origin, age, physical or mental disability, marital status, religion, creed, sex, sexual orientation or political beliefs. The Office has adopted the State of Montana's EEO Policy as the basis of its program plan. That document can be found in Appendix A.

## II. GOALS AND OBJECTIVES

The Secretary of State's Office EEO goal is to make its workforce more closely reflect the labor force in Montana. The Office will make specific good faith efforts to identify the underutilization of women and minorities, and make the necessary changes to remove any existing barriers to their employment. The Office will also work to recruit and retain qualified minorities and individuals with disabilities at all employment levels.

Underutilization may be caused by barriers to employment. Therefore, the Office will regularly review its recruitment, selection, and promotion process to ensure that women and minorities receive equal opportunity to secure and retain employment. The Office provides supervisors and managers on-going training on EEO topics, issues and laws with opportunities to share EEO information applicable to the Office and its relationship to our recruitment and retention process, through quarterly HR meetings.

## III. UNDERUTILIZATION REVIEW

Appendix B contains a table that summarizes the Secretary of State's Office (SOS) underutilization of women and minorities by EEO category and job groups within the category. This information comes from the Utilization Analysis Report that compares the SOS workforce to Montana's labor force by each job group. If the SOS workforce in a particular job group is less than the labor force, then the job group is defined as underutilized.

SOS hiring officials will strive to determine the cause of underutilization (employment barriers) and take appropriate action to remove those barriers. Employment barriers may be caused by:

**Recruitment Problems**—The employer is not attracting qualified women and/or minority applicants in numbers proportionate to their external availability.

**Selection Problems**—The selection rate for women and/or minorities is significantly less than the selection rate for the other remaining applicants.

**Upward Mobility Problem**—The employer is not advancing qualified women and minorities.

**On-the-Job Treatment Problem**—The job conditions or the employer's performance evaluation of its employees should not have adverse impact on women and minorities.



## IV. EEO PROGRAM PLAN

The SOS has established the following EEO Program/Diversity Action plan. SOS managers/hiring officials will strive to increase women and minority representation for underutilized positions by evaluating their recruitment and selection practices to ensure that women and minorities receive equal opportunity to secure employment. The Office will continue its efforts to recruit and retain qualified women and minorities, and individuals with disabilities in all levels of our workforce.

### A. Hiring

Prior to beginning the hiring process, the Human Resource Officer will review the Utilization Analysis and the Adverse Impact Report for the job category to determine if the position is attracting qualified women and/or minority applicants in numbers proportionate to their external availability.

If the position's job category is underutilized, the Human Resource Officer will review the job profile to make sure the position requirements are job-related and consistent with business necessity and the safe performance of the position. Any hiring requirement that does not meet these criteria will be removed or modified, in collaboration with the hiring manager or official, to avoid screening out qualified applicants.

The Office will make reasonable accommodations to applicants with physical and mental limitations unless such an accommodation would create an undue hardship on the agency's ability to conduct business.

### B. Recruitment

The SOS recruitment goal is to increase women and minority representation in underutilized positions by attracting qualified candidates to apply for the underutilized positions. Applicant's qualifications will be reviewed to be sure qualified individuals are treated in a nondiscriminatory manner. Vacancy announcements for underutilized positions will include the statement:

*Women (and/or) minorities are under-represented in this position and are encouraged to apply.*

The department will post all external vacancy announcements on State of Montana Employment website: <http://mt.gov/statejobs/statejobs.asp>, will post vacancy announcements on the SOS website, and will notify SOS employees of these opportunities through the e-mail system.

The SOS Office will continue to partner with the Montana Job Service Workforce Centers in its recruitment efforts. The Job Service Workforce Centers provide the following services for applicants:

1. Conduct training on how to apply for a state job;
2. Provide application materials to the public;



3. Answer general questions about vacancies and application procedures;
4. Provide proficiency testing;
5. Forward completed applications to the hiring agency; and
6. Provide classes on how to use the computer to perform basic internet job search activities, and complete resumes on-line.

The Office will encourage the employment of women, minorities, and people with disabilities who are not currently in the workforce, by offering part-time employment, internships, or summer employment when possible. The Office will also work with other recruitment sources as needed (organizations having effective contact with women, minority groups and persons with disabilities) to improve recruitment efforts if underutilization in specific job categories is persistent.

### **C. Compensation**

The Human Resource Officer will periodically review the MT Comparable Worth Study, the Utilization Analysis and the Adverse Impact Report along with the Employee Profile and internal compensation records to determine if a gender, race, or ethnicity disparity exists in employee pay, and to ensure that qualified women and minorities are provided opportunities at rates substantially similar to those of qualified men and non-minority employees. The Human Resource Officer will continue to work closely with the State EEO/ADA Officer to identify and mitigate disparities. If a disparity is identified, the Secretary of State and Chief Deputy will be notified and provided with recommendations on resolving the disparity. The SOS will strive to employ and retain qualified minorities and individuals with disabilities in all levels of its workforce and ensure fair/equitable compensation.

### **D. Training Programs**

Quarterly meetings for agency managers and supervisors provide training opportunities in a variety of supervisory topics including EEO ADA. The SOS Diversity Action Plan and related training will be the primary agenda item for one meeting each year. The SOS Human Resource Officer will ensure managers involved in the recruitment and selection process understand the Diversity Action Plan, and are committed to its implementation.

### **E. Harassment and Discrimination Prevention**

The SOS has adopted the State of Montana's EEO Policy (Appendix A) prohibiting the harassment of, or discrimination against, any employee because of any characteristic protected under civil rights laws. Any person who believes he, she or another person has been subjected to discrimination is encouraged to report the incident or action. The complaint resolution procedure is explained in Appendix C.

All SOS employees will be provided with EEO/Anti-Discrimination training in April 2011. This training will cover key learning areas including federal and state laws prohibiting discrimination, illegal discriminatory practices, sexual harassment, unfair treatment, and employee and managerial roles in preventing and addressing discrimination.



## **F. Termination**

Exit interviews are conducted by the Human Resource Officer to provide the terminating employee with the opportunity to:

1. Discuss the precise reason(s) for the termination;
2. Voice any concerns the employee may have been reticent to express while employed; and,
3. Provide positive and negative comments and suggestions related to their employment experience.

The SOS will use the Adverse Impact Report to identify if women and minorities leave our Office at rates substantially different from those of men, non-minority employees, and employees without disabilities. We will work to mitigate or eliminate conditions not conducive to EEO goals.

## **V. DUTIES AND RESPONSIBILITIES FOR PROGRAM IMPLEMENTATION**

### **A. Agency Head/Elected Official:**

1. Support the Secretary of State's Office Diversity Action Plan, and hold managers accountable for adhering to it.

### **B. EEO Officer/ADA Coordinator:**

1. Review and update the SOS Diversity Action Plan as necessary.
2. Implement and maintain EEO reporting and recordkeeping systems to measure the effectiveness of the SOS Diversity Action Plan, and to determine whether goals and objectives have been attained.
3. Periodically review compensation adjustments to determine if gender, race, or ethnicity disparities exist in employees pay.
4. Annually update the SOS Underutilization Report, with assistance from the State EEO Officer as needed, and report to Chief Deputy and Secretary on highlights, changes or progress, and comparison to prior year figures.
5. Assist managers in identifying what may be causing underutilization (employment barriers) and recommend appropriate action.
6. Keep management informed of the latest developments in the area of EEO.
7. Provide training opportunities for managers and employees in the area of EEO and anti-discrimination.
8. Review the Utilization Analysis and Adverse Impact Report prior to beginning the hiring process.
9. Investigate, and attempt to resolve all EEO complaints.



**C. Managers/Supervisors:**

1. Responsible for implementing and adhering to the SOS Diversity Action Plan.
2. Lead by example. Treat all persons in the workplace fairly, and with courtesy, dignity and respect.
3. Ensure the SOS EEO Policy Statement and Complaint Resolution Procedure is posted on employee bulletin boards.
4. Responsible for reviewing the recruitment, selection, and promotion process.
5. Attend agency-sponsored training sessions that address topics of EEO, ADA, Anti-Discrimination and Anti-Harassment and encourage or support subordinate employee participation and attendance.

**D. Employees:**

1. Treat all persons in the workplace fairly, and with courtesy, dignity and respect.
2. Inform supervisor and the Human Resource Officer of any EEO concerns.
3. Follow the SOS Diversity Action Plan.
4. Attend agency-sponsored training sessions that address topics of EEO, ADA, Anti-Discrimination and Anti-Harassment and apply learned techniques and recommendations to the work place.

**VI. DIVERSITY ACTION PLAN DISTRIBUTION:**

**A. Internal**

1. Each employee will receive a copy of this plan during new employee orientation.
2. The EEO Policy and Complaint Resolution Procedure posters will be permanently posted and conspicuously displayed in areas available to employees and applicants for employment.
3. The SOS Diversity Action Plan will be posted on SharePoint, accessible to all employees.

**B. External**

1. The SOS Diversity Action Plan will be posted on the SOS web page.



# APPENDIX A

## STATE OF MONTANA

### EQUAL EMPLOYMENT OPPORTUNITY\*

It is the policy of the State of Montana that state government:

- Is an equal employment opportunity employer;
- Does not discriminate in employment based upon **race, color, national origin, age, physical or mental disability, marital status, religion, creed, sex, sexual orientation or political beliefs**; and
- Implements and maintains an effective equal employment opportunity program that may include a written affirmative action plan.

Employees of the State of Montana have a right to work in an environment free from all forms of discrimination. The State of Montana's prohibition of discrimination includes discrimination in hiring, firing, promotions, compensation, job assignments, and other terms, conditions or privileges of employment. The State of Montana may not retaliate or allow, condone, or encourage others to retaliate against any applicant, employee, or past employee for opposing unlawful discriminatory practices, filing a discrimination complaint and/or testifying or participating in any other manner in a discrimination proceeding.

All employees with access to such information shall maintain the confidentiality of the information to the extent reasonably possible and may not release the information to anyone who does not have the right or need to know.

SEXUAL HARASSMENT	DISABILITIES
<p>The State of Montana prohibits sexual harassment of employees, customers, clients and any other persons. There are two categories of sexual harassment:</p> <p><b>Quid pro quo:</b> Sexual favors are sought in return for job benefits or opportunities. It includes being forced to resign (constructive discharge). <b>Examples:</b> Sexual advances that are unwelcome. The loss or threatened loss of a job for failing to comply with a supervisor's sexual demands. This may include situations that began as mutual attractions, but later ceased to be reciprocal. Employment benefits affected in exchange for sexual favors (may include situations where a third party is treated less favorably because others have agreed to sexual advances).</p> <p><b>Hostile working environment:</b> Unwelcome sexual conduct that unreasonably interferes with an employee's job performance or creates an intimidating, hostile or offensive working environment. The key words are <b>unwelcome, unreasonable, and intimidating, hostile or offensive.</b> <b>Examples:</b> Displaying sexually suggestive objects, pictures,</p>	<p>The State of Montana does not discriminate against any applicant or employee in hiring, firing, promotions, compensation, job assignments and other terms, privileges or conditions of employment due to physical or mental disability.</p> <p>The State of Montana provides reasonable accommodation to an otherwise qualified applicant or employee with a known disability that prevents the individual from participating in the application process, competing in the selection process, performing the essential functions of the job, and enjoying equal benefits and privileges of employment. An accommodation that is not effective, creates an undue hardship on a department, or endangers health or safety is not a reasonable accommodation.</p> <p>Any otherwise qualified applicant for employment or employee with a disability who needs reasonable accommodation shall inform the department personnel officer, his or her immediate supervisor or the department ADA coordinator of the nature of the disability and the accommodation requested.</p>





<p>cartoons or posters. Verbal abuse of a sexual nature, sexually oriented jokes, innuendoes, or obscenities. Sexually suggestive letters, notes or invitations.</p> <p>Harassment not involving sexual activity or language is also discriminatory if it is sufficiently patterned or pervasive and directed at employees because of their sex. This is <b>gender-based</b> harassment.</p>	<p>Some communicable diseases, for example, HIV/AIDS, are physical disabilities. The State of Montana does not discriminate against any applicant for employment or employee based upon communicable disease unless required to do so by the reasonable demands of the position.</p>
<b>OTHER HARASSMENT</b>	<b>MATERNITY</b>
<p>The State of Montana's policy is to provide employees with a work environment free of these forms of harassment. Harassment of employees, clients, customers, and any other persons doing business with state government because of a person's <b>race, color, national origin, age, physical or mental disability, marital status, religion, creed, sexual orientation or political beliefs</b> is prohibited.</p> <p>Examples of other prohibited harassment include, but are not limited to: Coercion of employees, clients, or customers in the participation or non-participation in religious activities; or ethnic slurs, repeated jokes, innuendoes, or other verbal or physical conduct because of a person's nationality, race, color, age, physical or mental disability, marital status, religion, creed, sexual orientation or political beliefs if these actions create an intimidating, hostile or offensive working environment.</p>	<p>The State of Montana may not discriminate against any applicant or employee in hiring, firing, promotions, compensation, job assignments and other terms, conditions or privileges of employment based upon a temporary disability resulting from pregnancy, childbirth, or related medical conditions.</p> <p>The State of Montana may not terminate any employee due to pregnancy or childbirth. The State of Montana shall grant a request by an employee for a reasonable leave of absence for pregnancy, childbirth or related medical conditions. The State of Montana recognizes six (6) calendar weeks as a reasonable period of recovery from the temporary disability due to childbirth.</p>
<b>EQUAL PAY</b>	<b>RELIGION</b>
<p>The State of Montana may not pay unequal compensation to men and women who perform jobs that require substantially equivalent skill, effort, and responsibility that are performed under similar working conditions. Wage differentials are permitted on factors other than sex, for example, longevity, merit, and applicant or employee qualifications.</p>	<p>The State of Montana shall make reasonable accommodation for religious beliefs or practices. Any otherwise qualified applicant for employment or employee who requires reasonable accommodation may inform his or her immediate supervisor or the department EEO officer of the need for a religious accommodation. An accommodation that creates an undue hardship on a department is not a reasonable accommodation.</p>

The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. 'Genetic information' as defined by GINA, includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services. To comply with this law, we will not provide any genetic information when responding to a request for medical information, nor will we request medical information that includes genetic information as defined by GINA.



If you are considering reporting a complaint, you can: Use your department's complaint resolution procedure. File a complaint with the Human Rights Bureau, Department of Labor and Industry (PO Box 1728, Helena, MT 59624-1728, phone 1-800-542-0807). Complaints with the Human Rights Bureau will be accepted within 180 days of the act, or an extended 120 days if you are using an internal complaint procedure.

If you are not personally a victim of discrimination, but observe actions against other employees that you believe to be discrimination, you are encouraged to bring it to the attention of your EEO Officer or ADA Coordinator.

**Kristin Jacobson - ADA/EEO Coordinator and Human Resource Officer**

Room 260 State Capitol Building  
1301 E. Sixth Ave.  
Helena, MT 59620

**\*NOTE: The Montana Secretary of State's Office has adopted this EEO Policy.**



**APPENDIX B**  
**UNDERUTILIZATION REPORT as of April 5, 2011**  
**(This report will be updated annually)**

	<b>Underutilization</b>	
<b>EEO Categories and Job Groups</b>	<b>Female</b>	<b>Minority</b>
<b>Officials and Administrators Category:</b>		
Occupational Code 000: Elected Official; Personal Staff/Admin; Personal Staff/Prof	0	0
Occupational Code 113: Administrative Services Managers; Computer Information Systems Manager; Financial Manager	0	0
<b>Professional Category:</b>		
Occupational Code 131: Program Specialist; Human Resource Specialist; Administrative Specialist	-1	0
Occupational Code 132: Accountant	0	0
Occupational Code 151: Computer Programmer; Computer Systems Analyst; Network Administrator	0	0
Occupational Code 232: Paralegal Legal Assistant	0	0
Occupational Code 273: Editor	0	0
<b>Technicians Category:</b>		
Occupational Code 151: Computer Support Specialist;	0	0
Occupational Group Code 433: Accounting Technicians	0	0
Occupational Group Code 434: License Permit Technicians, Human Resource Assistant;	-1	-1
Occupational Code 436: Administrative Assistants; Records Management Assistant;; Compliance Technician	0	0
Occupational Code 439: Document Imaging Operators	-1	0
<b>Paraprofessionals Category:</b>		
Occupational Code 000: Personal Staff/Paraprof	0	0
<b>Office/Clerical Craft Category:</b>		
Occupational Code 434: License Permit Clerk	0	0
Occupational Code 436: Secretary	0	0
Occupational Code 439: Administrative Clerk; Proofreader; Document Imaging Operator	-1	0
Occupational Code 431: Administrative Support Supervisor;	0	0
<b>Service Maintenance Category:</b>		
Occupational Code 537: Warehouse Workers	0	0



# **APPENDIX C**

## **STATE OF MONTANA**

### **NONDISCRIMINATION-EQUAL EMPLOYMENT OPPORTUNITY COMPLAINT RESOLUTION PROCEDURE\***

The State of Montana is an equal employment opportunity employer and prohibits discrimination based on race, color, national origin, age, physical or mental disability, marital status, religion, creed, sex, sexual orientation or political beliefs unless based on a bona fide occupational qualification (BFOQ). The State also prohibits discrimination in providing services, activities and programs unless providing a reasonable accommodation or reasonable modification would cause an undue hardship.

The State of Montana is committed to resolving complaints of discrimination in a fair and timely manner. The complaint resolution procedure is a dispute resolution process used when an applicant, client, customer or employee alleges that discrimination has taken place. Management must investigate when reports are received. Complaints concerning disability discrimination are submitted to the agency Americans with Disabilities Act (ADA) Coordinator. All other complaints are submitted to the agency Equal Employment Opportunity (EEO) Officer. This complaint resolution procedure may not cover members of a collective bargaining unit unless it is stipulated in the bargaining agreement.

#### **Complainant's Responsibility:**

Any applicant, client, customer, or employee who believes he or she or another person has been subjected to a discrimination of the equal employment opportunity policy is encouraged to report the incident(s) or action(s) to management as soon as possible after the alleged discrimination occurs. Early reporting is encouraged, because management's ability to investigate and act on reports diminishes with time.

#### **Management's Responsibility:**

1. Any supervisor who receives a report of an alleged discrimination shall immediately notify the agency EEO Officer or ADA Coordinator.
2. Upon receipt of a report alleging discrimination, including sexual harassment, the agency shall take all appropriate steps to prevent the alleged conduct from continuing pending completion of the investigation. The agency will determine the steps to be taken by balancing the rights of the alleged victim, including the severity of the alleged conduct, and the rights of the alleged harasser.
3. The EEO Officer or ADA Coordinator shall initiate an investigation or select another appropriate management representative to initiate the investigation no later than 10 working days after receiving notice of the alleged discrimination. The investigation shall include verification of the report, a recommended course of action, and written documentation of the investigation. The investigator shall submit the results of the investigation to department or agency personnel officer. The factual report shall remain confidential and may not be disseminated except to persons having a need or right to know which outweighs the privacy rights of the persons involved.
4. Within 5 working days of receiving the investigator's factual report, the agency will, in writing, inform the complainant, any employees directly involved, their immediate supervisors, and the EO Officer or ADA Coordinator of the results of the investigation and the agency's decision.



5. If the investigation establishes that there is insufficient evidence to find that illegal discrimination occurred, the agency will inform all parties involved that no action will be taken. If the investigation establishes that discrimination occurred, the agency will take appropriate action, including, but not limited to, disciplinary measures pursuant to the agency's disciplinary policy, which may include termination. The agency will, in writing, inform the complainant only that an action was taken, not the details of the action.
6. Neither the agency management nor any employee will retaliate against any employee for filing a discrimination complaint or for participating in any way in a complaint procedure.

**OTHER COMPLAINT FILING OPTION** (1) An applicant, client, customer, or employee may concurrently file a complaint of unlawful discrimination with the Human Rights Bureau (PO Box 1728, Helena, MT 59624-1728, phone 1-800-542-0807.) The complaint must be filed either:

- a. within 180 days of the alleged incident; or
- b. if the employee initiates action to resolve the alleged discrimination in accordance with this procedure or contract grievance procedure, within 300 days of the alleged incident.

Kristin Jacobson - ADA/EEO Coordinator/Human Resource Officer  
Room 260 State Capitol Building  
1301 E. Sixth Ave.  
Helena, MT 59620

**\*NOTE: The Montana Secretary of State's Office has adopted this complaint resolution procedure.**

